



COMMONWEALTH OF KENTUCKY
DEPARTMENT OF INSURANCE
Frankfort, Kentucky

BULLETIN
2008-03

The following Bulletin is to advise the reader of the current position of the Kentucky Department of Insurance (the “Department”) on the specified issue. The Bulletin is for informational purposes only and is not legally binding on either the Department or the reader.

TO: All Insurance Companies Issuing Property Policies in Kentucky

FROM: John Burkholder, Acting Commissioner

RE: Fiscal Court Approves Mine Subsidence Insurance for Laurel County, Kentucky

DATE: July 8, 2008

Overview

Pursuant to KRS 304.44-020(2), insurance shall be made available through the Kentucky Mine Subsidence Insurance Fund against losses to any “structure” arising out of or due to mine subsidence within the state of Kentucky. Every insurance policy issued or renewed in this state for direct loss to a “structure,” unless located in an exempt county pursuant to KRS 304.44-060, shall include a separately stated premium insuring for mine subsidence loss.

Non-exempt Kentucky counties may become qualified participants in the Kentucky Mine Subsidence Insurance Fund when the fiscal court of the county approves the availability of mine subsidence insurance.

Laurel County Fiscal Court Votes for Mine Subsidence Insurance

On June 26, 2008, the Laurel County Fiscal Court unanimously voted to approve Laurel County as a qualified participant in the Mine Subsidence Insurance Fund. All insurance

companies issuing property policies in Laurel County, Kentucky must amend their property contracts covering “structures” to include premium and coverage for losses arising out of mine subsidence. Insureds within Laurel County have the option to sign a written waiver if they do not want mine subsidence coverage.

“Structure” Defined

Within the Kentucky Mine Subsidence Insurance Fund, structure means any dwelling, building, or fixture permanently affixed to realty but does not include land, trees, plants, or crops. See, KRS 304.44-010(6). “Permanently affixed” means that the structure was constructed or assembled at its present location upon a permanent foundation. Buildings designed to be mobile or portable are not considered structures regardless of foundation type.

Refusal to Provide Subsidence Coverage Permitted

Pursuant to KRS 304.44-040, an insurer may refuse to provide subsidence coverage on a structure evidencing unrepaired subsidence damage until necessary repairs are made or where the insurer has declined, nonrenewed, or cancelled all coverage under a policy for underwriting reasons unrelated to mine subsidence.

Any questions should be directed to Mike Staley, Insurance Program Manager, Department of Insurance, at 502-564-6082 or Mike.Staley@ky.gov.

/s/ John Burkholder
John Burkholder, Acting Commissioner
Kentucky Department of Insurance
On this 14th day of July, 2008